

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against:

Case No. **2012-465**

12 **ANNETTE MILLER,**
13 **aka ANNETTE ROQUE**
14 **12330 Vance Jackson Road, Apt. 13203**
San Antonio, TX 78230-6034

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
19 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing
20 ("Board"), Department of Consumer Affairs.

21 2. On or about December 16, 2010, the Board received an application for a registered
22 nurse license from Annette Miller, also known as Annette Roque ("Respondent"). On or about
23 December 5, 2010, Respondent certified under penalty of perjury to the truthfulness of all
24 statements, answers, and representations in the application. The Board denied the application on
25 July 28, 2011.

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

4. Code section 2761 states, in pertinent part:

(a) Unprofessional conduct . . .

• • • •

5. Code section 2762 states, in pertinent part:

• • • •

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

///

///

///

///

///

///

1 6. Code section 2765 states:

2 A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere made to a charge substantially related to the qualifications, functions and
4 duties of a registered nurse is deemed to be a conviction within the meaning of this
5 article. The board may order the license or certificate suspended or revoked, or may
6 decline to issue a license or certificate, when the time for appeal has elapsed, or the
7 judgment of conviction has been affirmed on appeal or when an order granting
8 probation is made suspending the imposition of sentence, irrespective of a subsequent
9 order under the provisions of Section 1203.4 of the Penal Code allowing such person
10 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
11 the verdict of guilty, or dismissing the accusation, information or indictment.

12 7. Code section 480 states, in pertinent part:

13 (a) A board may deny a license regulated by this code on the grounds that
14 the applicant has one of the following:

15 (1) Been convicted of a crime. A conviction within the meaning of this
16 section means a plea or verdict of guilty or a conviction following a plea of nolo
17 contendere. Any action that a board is permitted to take following the establishment
18 of a conviction may be taken when the time for appeal has elapsed, or the judgment
19 of conviction has been affirmed on appeal, or when an order granting probation is
20 made suspending the imposition of sentence, irrespective of a subsequent order under
21 the provisions of Section 1203.4 of the Penal Code.

22

23 (3)(A) Done any act that if done by a licentiate of the business or
24 profession in question, would be grounds for suspension or revocation of license.

25 (B) The board may deny a license pursuant to this subdivision only if the
26 crime or act is substantially related to the qualifications, functions, or duties of the
27 business or profession for which application is made . . .

28 **FIRST CAUSE FOR DENIAL**

(Criminal Conviction)

8. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
subdivision (f), and 480, subdivisions (a)(1) and (a)(3)(A), in that on or about October 28, 2009,
in the criminal proceeding titled *State of Texas v. Annette Roque* (County Ct. 9, Bexar County,
2009, Case No. 259149), Respondent pled nolo contendere to driving while intoxicated, a
misdemeanor, a crime substantially related to the qualifications, functions, and duties of a
registered nurse. On October 28, 2009, Respondent was placed on probation for eight months on
conditions which included 48 hours of community service, complete a DWI certified Education
Program (AIDE), complete an Alcohol treatment evaluation, and have a no ignition interlock.

1 The circumstances of the crime are as follows: On or about July 26, 2008, an officer with
2 the San Antonio Police Department was following Respondent's vehicle. The officer noticed that
3 the vehicle was swerving in and out of its lane and that it would speed up unexpectedly, then
4 suddenly slow down. The officer initiated a traffic stop and made contact with Respondent. The
5 officer could smell a moderate amount of alcohol in the vehicle and on Respondent's breath. The
6 officer observed that Respondent's eyes were glassy and that her coordination was off as she
7 looked for her driver's license. The officer had Respondent step out of the vehicle. Respondent
8 was having a hard time maintaining her balance, swayed back and forth, and several times had to
9 reach out to the driver's door to help herself with her balance. The officer had Respondent
10 perform field sobriety tests, which she failed. Based on Respondent's performance on the field
11 sobriety tests and her symptoms of intoxication, the officer arrested Respondent for driving while
12 intoxicated.

13 **SECOND CAUSE FOR DENIAL**

14 **(Use of Alcoholic Beverages to an Extent or in a Manner 15 Dangerous or Injurious to Oneself and the Public)**

16 9. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
17 subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3)(A), in that on or about July 26,
18 2008, Respondent used or consumed alcoholic beverages to an extent or in a manner dangerous or
19 injurious to herself and the public, as set forth in paragraph 8 above.

20 **THIRD CAUSE FOR DENIAL**

21 **(Conviction Related to the Consumption of Alcoholic Beverages)**

22 10. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
23 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3)(A), on the grounds of
24 unprofessional conduct, in that on or about October 28, 2009, Respondent was convicted of a
25 criminal offense involving the consumption of alcoholic beverages, as set forth in paragraph 8
26 above.

27 ///

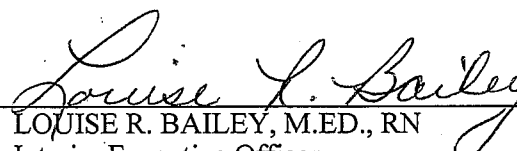
28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Denying the application of Annette Miller, also known as Annette Roque, for a
5 registered nurse license;
6 2. Taking such other and further action as deemed necessary and proper.

7
8 DATED: February 22, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 SA2011103076